



## *Memorandum*

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** May 27, 2004

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**COUNCIL DISTRICT:** 4

**SUBJECT: A PLANNED DEVELOPMENT REZONING (PDC04-002) AND A DEVELOPMENT AGREEMENT (DA – BEA) FOR AN APPROXIMATELY 41.0 ACRE SITE LOCATED ON THE WEST SIDE OF NORTH FIRST STREET ON BOTH SIDES OF COMPONENT DRIVE.**

### **RECOMMENDATION**

The Planning Commission voted 6-1-0 (Commissioner Zito opposed) to recommend that the City Council approve the proposed Rezoning and associated Development Agreement.

### **BACKGROUND**

On May 26, 2004, the Planning Commission held a public hearing to consider a Planned Development rezoning proposed by BEA Systems, Inc., from IP(PD) Planned Development District to IP(PD) Planned Development District and a Development Agreement to allow up to 2.8 million square feet of development for research and development/office uses through the allocation of existing and future floor area credits from the City's pool of transferable industrial floor area.

The Director of Planning, Building and Code Enforcement recommended approval of the proposed Rezoning and the Development Agreement. The items, although agendized separately, were considered together.

One member of the public, William Garbett, spoke in opposition to the project. Mr. Garbett expressed concern that the environmental impacts of the proposed project regarding Burrowing Owls and wetlands were not appropriately addressed in the EIR. He also stated that he believed rezoning the property would produce too much traffic in the project vicinity.

Another member of the public, Tim Steele, spoke in favor of the project. He stated that he was in support of the proposed project and felt the project would be a tremendous benefit to the North San José area.

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The applicant responded to the issued raised by Mr. Garbett, stating that a program to address Burrowing Owls was adopted via a previous zoning approved for Agilent, the previous property owner. Those mitigation measures are still being implemented. The Planning Commission then closed the public hearing.

Commissioner Levy stated his support for the project but suggested that the proposed site plan and architecture should be thoughtfully planned to ensure a high quality precedent setting development.

Commissioner Platten subsequently moved to certify the EIR for the proposed project. The motion passed with a 7-0-0 vote.

Subsequent Commission discussion on the proposed project noted that the proposed urban character and building height along the North First Street corridor was exactly what the City's policies were envisioning at this location. The project applicant, Frank Jesse of BEA Systems, Inc., indicated he looked forward to working with staff during the PD permit stage to design high quality architecture for landmark worthy buildings at this location. Staff explained that a review of the North San José industrial area is currently underway, and that the BEA project would be a cornerstone of future industrial intensification along the light rail line.

Commissioner Zito expressed concern regarding how industrial square footage credits are accumulated and allocated to industrial properties in North San José, particularly regarding the 20-year life span of the proposed Development Agreement. He noted that approximately 2.7 million square feet of pool credits would need to be accumulated in order to meet the previously approved eBay Development Agreement and the pending BEA Development Agreement over that timeframe. Staff responded that while an exact schedule for accrual of floor area credits could not be assured, recent residential land use conversion and building permit activity had already provided for 200,000 to 300,000 square feet of pool and that staff is confident the buildout of both the eBay and BEA sites is achievable within the timeframe.

The City Attorney explained the finer points of the Development Agreement including the requirements of the project to conform to future Building Code changes. Subsequently, the Commissioners expressed their support for the project; however, Commissioner Zito noted he still had reservations on recommending approval of the Development Agreement.

Commissioner Campos commented that the City of San José should support its Driving Industries and moved to recommend approval of the Planned Development Zoning District and the Development Agreement with a single action which was unanimously approved. Commissioner Zito again expressed his particular concern for the lack of certainty in the future allocation of square footage credits and 20-year time frame as described in the Development Agreement, and moved that the Commission take separate actions on the two items. The motion to take separate actions failed, and Commissioner Zito commented he would vote in opposition

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to the project for his stated concerns regarding the Development Agreement, although he concurred that the urban character of this future headquarters campus was appropriate on the site and important for the City's economic development goals along North First Street. The Commissioners then voted 6-1-0 (Commissioner Zito opposed) to recommend approval of the Planned Development Rezoning and Development Agreement in a single motion.

### **PUBLIC OUTREACH**

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1000 feet of the project site. In addition, the Planning Division's website contains information regarding the zoning process, the Zoning Ordinance, and the *San José 2020 General Plan*. In addition, information on this proposed rezoning application, including staff reports and public hearing schedule, is also available. Staff has also made itself available to discuss the subject project on an individual meeting-basis with property owners and members of the public.

### **COORDINATION**

This project was coordinated with the Redevelopment Agency, Office of Economic Development, Department of Public Works, and the City Attorney.

STEPHEN M. HAASE  
Secretary, Planning Commission

Attachment: Supplemental Public Works memorandum

